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UNITED STATES OF AMERICA  
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11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 DAVID LORENZO GARCIA,

17 Defendant.  
18

No. CR 15-0707-R

GOVERNMENT'S POSITION RE: SENTENCING  
FOR DEFENDANT DAVID LORENZO GARCIA

Sentencing Date: July 29, 2016

19 Plaintiff United States of America, by and through its counsel  
20 of record, the United States Attorney for the Central District of  
21 California and Assistant United States Attorney Daffodil Tyminski  
22 and, hereby files the government's position with respect to  
23 sentencing defendant David Lorenzo Garcia ("defendant").  
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1        This sentencing position is based upon the attached memorandum  
2 of points and authorities, the files and records in this case, and  
3 such further evidence and argument as the Court may permit.  
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5        Dated: July 27, 2016

Respectfully submitted,

6                    EILEEN M. DECKER  
7                    United States Attorney

8                    LAWRENCE S. MIDDLETON  
9                    Assistant United States Attorney  
                    Chief, Criminal Division

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                    DAFFODIL TYMINSKI  
                    Assistant United States Attorney

12                    Attorney for Plaintiff  
13                    UNITED STATES OF AMERICA  
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MEMORANDUM OF POINTS AND AUTHORITIES

**I. INTRODUCTION**

On April 28, 2016, defendant pleaded guilty to count six of the Indictment. (Presentence Investigation Report ("PSR") of the United States Probation Office ("USPO") dated June 20, 2016 ¶ 2.) Based on the PSR and the facts and circumstance of this case, the government asks that the Court impose a sentence of probation, followed by five years of supervised release, no fine, and a special assessment of \$100.

**II. BACKGROUND AND THE USPO'S FINDINGS**

Count six charges defendant with distribution of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C). The charges stem from defendant's distribution of methamphetamine for defendant Roberto Macias, the leader of the conspiracy. As part of the conspiracy, on or about January 19, 2014, defendant received approximately 41 grams of methamphetamine from Macias for distribution to co-defendant Lopez. (PSR ¶¶ 10-12.)

**A. The Offense Level and Defendant's Criminal History**

In defendant's plea agreement, the parties agreed to a base offense level of 28, pursuant to U.S.S.G. § 2D1.1(c)(6), less four levels for mitigating role. (Plea Agreement ¶ 17). The USPO calculated defendant's base offense level as 28, pursuant to U.S.S.G. § 2D1.1(c)(3), and applied a four level decrease for minimal role, pursuant to U.S.S.G. §§ 3B1.2(a). (PSR ¶¶ 17-27.) The USPO concluded that defendant is in criminal history category I, and the government does not object to either of these findings.

According to the PSR, defendant is also safety-valve eligible, and the government does not object to this finding. As such, his

1 total offense level is 19, and with a criminal history category of I,  
2 defendant's sentencing range is 30-37 months.

3 **III. ANALYSIS OF THE 3553(a) FACTORS**

4 The factors to be considered when imposing sentence, as set  
5 forth in 18 U.S.C. § 3553(a), include:

6 **A. Nature and Circumstances of the Offense and the**  
7 **History and Characteristics of Defendant**

8 Defendant was a minor player in this narcotics distribution,  
9 which he became involved with as a result of his methamphetamine  
10 addiction. Defendant has a history of substance abuse, however,  
11 based on the government's investigation and exchange with defense  
12 counsel, defendant is quite functional when he is not using  
13 methamphetamine. Since being charged in this case, defendant has  
14 been a resident of Phoenix House, where he is receiving treatment and  
15 counseling, and he is doing very well. He is working now as a  
16 counselor to assist newcomers to the program, and he has been clean  
17 for almost six months. His participation in the program ends in  
18 early August 2016.

19 **B. The Seriousness of the Offense, Deterrence,**  
20 **and the Need to Protect the Public**

21 Methamphetamine distribution is a serious offense. The  
22 government submits that the aggravating factors - the nature of the  
23 offense - are extremely serious, but are mitigated by defendant's  
24 personal background. Moreover, defendant has done well in treatment,  
25 and the government agrees with defense counsel that, if the defendant  
26 is given a chance at additional drug treatment and counseling, he  
27 could well be a productive member of society. As such, the  
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1 government does not believe that a lengthy period of incarceration  
2 furthers the interests of justice.

3 For the foregoing reasons, and based on the sentencing  
4 guidelines as well as the factors set forth in 18 U.S.C. § 3553(a),  
5 the government requests that the Court sentence the defendant to  
6 probation, followed by five years of supervised release, no fine, and  
7 a mandatory special assessment of \$100.

8 Dated: July 27, 2016

Respectfully submitted,

9 EILEEN M. DECKER  
United States Attorney

10 LAWRENCE S. MIDDLETON  
11 Assistant United States Attorney  
12 Chief, Criminal Division

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